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VIRGINIA IRON, COAL & COKE CO. *v.* CLAYTOR'S ADM'R.

Nov. 14, 1918.

[98 S. E. 866.]

Error to Circuit Court, Botetourt County.

Action between the Virginia Iron, Coal & Coke Company and Claytor's administrator. There was a judgment for the latter, and the former brings error. Affirmed by divided court.

Jackson & Henson, of Roanoke, for plaintiff in error.

Haden & Haden, of Fincastle, for defendant in error.

PER CURIAM. Affirmed by divided court.

KELLY, J., absent.

E. I. DUPONT DE NEMOURS & CO. *v.* TAYLOR.

March 27, 1919.

[98 S. E. 866.]

1. Master and Servant (§ 286 (40)*)—Negligence—Evidence—Question for Jury.—Whether defendant was negligent in putting plaintiff to work on a tramroad car without notice of an overhead pipe which struck him held, under the evidence, for the jury.

2. Master and Servant (§ 289 (27)*)—Contributory Negligence—Evidence—Question for Jury.—Whether a servant was negligent in standing on a tramroad car and riding backwards when struck by an overhead pipe held, under the evidence, for the jury.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 726.]

3. Master and Servant (§ 288 (2)*)—Assumption of Risk—Question for Jury.—Whether a servant struck by an overhead pipe while riding on a tramroad car assumed the risk held, under the evidence, for the jury.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 726.]

4. Master and Servant (§ 289 (19)*)—Knowledge of Danger—Evidence.—In action for injuries to a servant struck by an overhead pipe while riding on a tramroad car, held, under the evidence, that it could not be said as a matter of law that he knew or was chargeable with knowledge of the danger.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 703.]

5. Appeal and Error (§ 930 (1)*)—Reviewing Evidence as on Demurrer.—On review of verdict for plaintiff attacked as contrary to law and evidence, the truth of all of plaintiff's parol evidence and all inferences therefrom favorable to plaintiff is admitted, regardless of conflicting evidence of defendant.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 576.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.